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In re Application of :
FEDELE, et al. :
Serial No.: 10/561,647 :
PCT No.: PCT/US04/19713 : DECISION ON PETITIONS
Int. Filing Date: 21 June 2004 :
Priority Date: 21 June 2003 : UNDER 37 CFR 1.47(a)
Atty Docket No.: 3174.1012-014 :
For: METHOD AND APPARATUS FOR : AND 37 CFR 1.181
PROCESSING BIOMETRIC IMAGES :
:

This decision is in response to applicant's "RENEWED PETITION FOR APPLICATION BY OTHER THAN ALL THE INVENTORS" filed 02 February 2009 to accept the application without the signature of joint inventor Vincent Fedele. In addition, this decision contains a ruling on applicant's communication of 12 January 2009 which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

BACKGROUND

On 04 August 2008, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 12 November 2008, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) notifying applicant that the above-captioned application was abandoned for failure to respond to the decision mailed 04 August 2008.

On 12 January 2009, applicant filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

On 02 February 2009, applicant filed the renewed petition discussed herein accompanied by payment of a five-month extension of time fee. Applicant is advised that only a four-month extension of time payment was required to make the response timely. The difference in extension of time fees will be refunded to deposit account number 50-4480.

DISCUSSION**I. Petition Under 37 CFR 1.181**

As discussed above, the decision mailed 04 August 2008 afforded applicant two months to file any request for reconsideration, as well as, an extendable period of up to five months pursuant to 37 CFR 1.136(a). Therefore, the abandonment of the application prior to 04 March 2009 was premature. The Form PCT/DO/EO/909 will be vacated and applicant's petition under 37 CFR 1.181 is granted.

II. Renewed Petition Under 37 CFR 1.47(a)

As detailed in the decision mailed 04 August 2008, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1-3.

Applicant has presently provided a compliant, combined declaration and power of attorney executed by the remaining joint inventors on their own behalf and on behalf of Vincent Fedele. Therefore, applicant has satisfied item (4) and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.181 and renewed petition under 37 CFR 1.47(a) are **GRANTED**.

The Form PCT/DO/EO/909 mailed 12 November 2008 is hereby **VACATED**.

The application has an international filing date of 21 June 2004 under 35 U.S.C. 363, and will be given a date of **02 February 2009** under 35 U.S.C. 371 (c).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).



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Priority Date: 21 June 2003
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For: METHOD AND APPARATUS FOR
PROCESSING BIOMETRIC IMAGES

Dear Mr. Fedele:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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